

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FILED

JUN 27 2012

CLERK, US DISTRICT COURT
NORFOLK, VA

TROY CRAWLEY, #33677-037,

Petitioner,

v.

ACTION NO. 2:11cv542

U. S. DEPARTMENT OF JUSTICE,
B.O.P. DIRECTOR,
REGIONAL DIRECTOR,

Respondents.

FINAL ORDER

Petitioner, a federal inmate currently confined at Federal Correctional Institution Petersburg (Low), filed a "Complaint for Declaratory Judgment or Alternative Injunctive Relief" with the United States District Court for the District of Columbia on May 5, 2010.¹ Compl., ECF No. 1. Petitioner asserted he had been disciplined by the Federal Bureau of Prisons on March 23, 2009, for possession of a cellular telephone while he was imprisoned at Federal Correctional Institution Schuylkill in Minersville, Pennsylvania. Compl. ¶¶ 2, 3, 6. Petitioner incurred the following sanctions: 60 days in disciplinary segregation, disallowance of 216 days of good conduct time, loss of phone privileges and visitation privileges for two years, and disciplinary transfer. Compl. ¶ 3. Petitioner alleged he was deprived of due process because he was not timely provided with the disciplinary hearing officer's decision, was wrongfully charged with the violation of an incorrect BOP rule, and was deprived of his right to be heard on appeal. Compl. ¶¶ 10-13. Petitioner requested an order reversing the findings and sanctions, expunging the incident report from his record, and restoring his status. Compl. ¶¶ 16-18.

¹ At the time Petitioner filed his Complaint, he was confined at FCI Elkton, Ohio. Compl. ¶ 6.

On September 3, 2010, Petitioner filed a Motion for Summary Judgment. ECF No. 15. Respondent filed a Motion to Dismiss, Motion for Summary Judgment, and Motion to Transfer the Case on October 19, 2010. ECF No. 18. On September 9, 2011, the United States District Court for the District of Columbia entered a Memorandum Opinion and Order (ECF No. 23), construing Petitioner's Complaint as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, because Petitioner's claims "essentially concern the validity of his imprisonment." Op. and Order 3. The court granted in part and denied in part Respondents' motions, and transferred the case to the United States District Court for the Eastern District of Virginia. Id. at 6. The court also denied Petitioner's Motion for Summary Judgment as moot. Id.

This Court referred the petition to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. ECF No. 26. The Magistrate Judge's Report and Recommendation filed May 16, 2012, recommends dismissal of the petition with prejudice because Petitioner failed to properly exhaust administrative remedies, and his claims lack merit. ECF No. 29. The Court has received no objections to the Report and Recommendation, and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed May 16, 2012, and it is therefore ORDERED that the petition be DENIED and DISMISSED with prejudice. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 60 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondents.



Raymond A. Jackson
United States District Judge

Raymond A. Jackson
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
June 26, 2012